

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated December 29, 2009. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

Claims 1-17 are pending in the Application. Claims 1, 7, 13 and 17 are independent claims.

In the Office Action, claims 1, 13 and 17 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 7,058,786 to Oliveri ("Oliveri") in view of U.S. Patent No. 7,058,786 to Weijenbergh ("Weijenbergh"). Claims 2-12 and 14-16 are rejected under 35 U.S.C. §103(a) over Oliveri in view of Weijenbergh in view of U.S. Patent No. 5,734,787 to Yonemitsu ("Yonemitsu"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-17 are allowable over Oliveri in view of Weijenbergh alone and in view of Yonemitsu for at least the following reasons.

Applicant's Arguments With Respect To Claims 1-17 Are Said in the Office Action To Be Moot In View Of The New Grounds Of Rejection

In the Office Action on page 11, it is stated that (emphasis added) "Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new grounds of rejection." This position is respectfully traversed.

It is Applicants' belief that the arguments presented in the December 2, 2009 Amendment where improperly dismissed in the Office Action.

It should be noted that the above §103(a) rejection over Oliveri in view of Weijenbergh is similar as the §102(e) rejection previously stated in a July 2, 2009 Final Office Action with the exception of the newly cited Weijenbergh which is introduced to show lead-in and lead-out data area (see, Office Action, bottom of page 2). In other words, Oliveri is being utilized exactly as it was utilized in the July 2, 2009 Final Office Action yet the arguments provided by the Applicants in the December 2, 2009 Amendment which were solely directed at Oliveri and its shortcomings which goes way beyond whether or not Oliveri shows lead-in and lead-outs areas, where never addressed in the Office Action.

For example, in the December 2, 2009 Amendment, on page 10, first full paragraph, the Applicants point out that (emphasis in original (single underline) and added herein (double underline)) "as a first point, it is respectfully submitted that Oliveri is not directed to dividing user storage space of an optical disc and therefore, the teaching of Oliveri are not applicable to the claims of the present application in that Oliveri is directed to providing a program access to kernel memory through a virtual addressing scheme that avoids system interrupts (see, Oliveri, Col. 1, lines 42-51 and Col. 2, lines 10-18)."

Continuing in the December 2, 2009 Amendment, on page 10, second full paragraph, the Applicants further point out that (emphasis in original (single underline) and added herein (double underline)) "Oliveri is clear in stating that (emphasis added) "the operating system and kernel have a designated memory address space for their use (e.g. kernel space) and user programs have a different designated memory address space for their use (e.g. user space)." (See, Oliveri, Col 1, lines 31-35.) As readily appreciated by a person of ordinary skill in the art, kernel space is not user space located on an optical disk.

In fact, kernel space is made up of memory components such as RAM, which is typically reserved for the operating system (see, Oliveri, Col. 1, lines 24-27). "

Further continuing in the December 2, 2009 Amendment, on page 11, first paragraph, the Applicants further point out that (emphasis in original (single underline) and added herein (double underline)) "[f]urther, while Oliveri does grant access rights to a program for accessing the kernel space through virtual address memory mapping, Oliveri does not teach, disclose or suggest that the kernel space is space, on an optical disk or otherwise, that is available for a user to store data."

Continuing further, in the December 2, 2009 Amendment, on page 11, second paragraph, the Applicants point out that "[I]astly, since Oliveri restricts access to kernel space, clearly kernel space is not user storage space located between a lead-in area and a lead-out area of an optical disk."

While the last "final" argument of the response in the December 2, 2009 Amendment points out that in Oliveri, kernel space is not user storage space located between a lead-in area and a lead-out area of an optical disk, the point in each of these arguments is that Oliveri does not divide the user storage space into one or more storage sections where a specific application is allowed to write and one or more sections where said application is not allowed to write.

Yet, the arguments stated by the Applicants in December 2, 2009 Amendment were not addressed other than to say that they were considered but are moot in view of the new grounds of rejection as pointed out above.

As should be clear from the above arguments reproduced herein, the Applicants respectfully submit that those arguments are not moot since Oliveri is utilized in the Office Action for exactly the same purposes as previously utilized with the exception that the Office Action utilizes Weijenbergh to show lead-in and lead-out areas.

However, the Office Action never addressed the arguments provided with regard to the deficiencies in Oliveri.

MPEP §707.07 states under ¶ 7.38, when utilizing "Arguments Are Moot ..." the "Examiner must, however, address any arguments presented by the applicant which are still relevant to any references being applied." Yet, as stated above, Applicants arguments where not addressed. Clearly, since Oliveri is being utilized for the same reason as previously utilized, Applicants' arguments cannot be said to be moot and therefore should have been addressed in the December 29, 2009 Office Action.

Accordingly, it is respectfully submitted that the Office Action is improper and either a Notice of Allowance should be issued or a new non-final Office Action addressing those arguments should be issued, thereby providing the Applicants with an opportunity to respond.

Claims 1-17 Are Non-Obvious Over Oliveri In View Of Weijenbergh Alone And In
View Of Yonemitsu

The Examiner is respectfully requested to review the above indicated deficiencies in Oliveri with regard to the pending claims which clearly are relevant to the non-obviousness of claims 1-17.

The Office Action patently ignores the fact that Oliveri well appreciated the differences between user storage space and space that is not user storage space, namely kernel space.

In fact it is Oliveri which makes the distinction between user storage space and non-user space, termed "kernel space" stating (emphasis added) "computer system having different memory address spaces, for example, user space and kernel space ..." (See, Oliveri, abstract.)

Oliveri further makes clear, as readily appreciated by a person of ordinary skill in the art, that (emphasis added):

the operating system and kernel have a designated memory address space for their use (e.g. kernel space) and user programs have a different designated memory address space for their use (e.g. user space). The two address spaces usually have different access privileges and protections associated with them. For example, the kernel space is restricted from access by user programs so that the user programs do not have an opportunity to intentionally or accidentally make changes to the kernel space memory that may cause system problems. (See, Oliveri, col. 1, lines 31-41.)

The Office Action cites Oliveri col. 3, lines 6-17, for the premise that (emphasis added) "Oliveri teaches a method for dividing user storage space of an optical disk

[including] ... dividing the user storage space into one or more storage sections where a specific application is allowed to write and one or more sections where said application is not allowed to write, wherein the user storage space is space on the disc that is available for a user to store user data ..." This position of the Office Action is respectfully refuted. In fact Oliveri is very clear that the operation of Oliveri provides an ability to pass data from a non-user area identified as kernel space.

Oliveri in col. 3, lines 6-17 states (emphasis added):

Illustrated in FIG. 1 is an exemplary system diagram of one embodiment of a data system that allows data to be passed between a user address space and a kernel address space. In a computer system, user applications, such as software programs, utilities and other applications, that run on top of the operating system execute in user space. User space and user applications have pre-determined memory addresses allocated for their use. The kernel space, has different pre-defined memory addresses for its use which may include physical and/or virtual memory. It will be appreciated that the kernel space and operating system address space can be used interchangeably.

Accordingly, Oliveri is clear and recognizes that which is appreciated by a person of ordinary skill in the art, namely that kernel space is not user storage space.

Oliveri col. 4, lines 37-49, is cited in the Office Action for describing assigning a data structure for a user application with access rights, which in terms of the claim recitations is presumed cited in the Office Action to correspond to (illustrative emphasis provided) "defining one or more availability parameters which defines a location and/or extent of at least one application-allowed storage section in the user storage space of the optical disk" as for example is recited in claim 1. Yet as should now be perfectly clear, Oliveri does not relate to availability parameters for user storage space.

Oliveri, col. 4, lines 37-49 states (emphasis added):

With reference to FIG. 2, when it is decided that a user application requires data to be communicated to and/or from the operating system, a data structure is defined in the system address space, e.g. kernel space, (block 200). For example, the data structure is defined in response to a request from a user application, from a request by an operating system function and/or program, or other triggering event. The data structure is mapped (virtually and/or physically to a system component (block 205) and typically will be controlled by the system component. The data structure is also virtually mapped to a user address space (block 210) allowing the user application to access data from it.

As is irrefutably clear, Oliveri in fact teaches a memory mapping system for accessing a non-user storage space, namely, kernel space and as such, has nothing to do with the pending claims. In fact and as previously pointed out, Oliveri is not even about dividing areas on an optical disk as asserted by the Office Action (see, Office Action, page 2, numbered paragraph 3), but is in fact about operating system memory address spaces.

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Oliveri. For example, Oliveri does not teach, disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "dividing the user storage space located between a lead-in area and a lead-out area of the optical disk into one or more storage sections where a specific application is allowed to write and one or more sections where said application is not allowed to write, wherein the user storage space is space on the optical disc that is available for a user to store user data; and defining one or more availability parameters which defines a location and/or extent of at least one application-allowed storage section in the user storage space of the optical disk" as recited in claim 1, and as similarly recited by

each of claims 7, 13 and 17.

As should be clear from the above discussion, Oliveri provides no such teaching of dividing the user storage space of an optical disk.

Weijenbergh is cited for showing a lead-in and lead-out area of a disk but even if the teachings of Oliveri where somehow applied to an optical disk as opposed to operating system memory as taught by Oliveri, Oliveri shows a system for accessing a non-user memory space so still has nothing to do with the above claims recitations even as modified by Weijenbergh as suggested in the Office Action.

Yonemitsu is cited for showing other elements of the claims and as such, does not cure the deficiencies of Oliveri in view of Weijenbergh.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 7, 13 and 17 are patentable over Oliveri in view of Weijenbergh and notice to this effect is earnestly solicited. Claims 2-6, 8-12 and 14-16 respectively depend from one of claims 1, 7 and 13 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration and allowance of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
March 29, 2010

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

Please direct all inquiries and correspondence to:

Michael E. Belk, Reg. 33,357
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
(914) 333-9643